

***Health Law Workshop – Revised Syllabus (v3 posted 02/20/17)***

**I. COURSE NUMBER AND TITLE:**

Semester & Year: Winter 2017

Course Start and End Dates: January 4, 2017 to May 7, 2017

Course CRN & Section: 30312

Meeting Days and Times: Tuesdays 6:00 PM to 9:05 PM (10 minute break taken)

Building and Room: Shepard Broad Law Center - Class Room 2

**II. INSTRUCTOR:**

 Name: Gerald M. Morris, Adjunct Professor

 Email: gerald.morris@holy-cross.com; gmorris@nova.edu

Phone: Office: 954-229-8500

Office Hours: Upon Request

**III. COURSE DESCRIPTION (Revised Fall 2016):**

**Health Law Workshop (3 Credits) LAW 1044 -** [ALSV Workshop](https://www.law.nova.edu/jd-program/alsv-workshops.html) providing hands-on research, analysis, drafting and situational experience commonly encountered in modern health care transactions and arrangements, along with examination of our health care system from the different, but related, perspectives of patients, providers and payors. The workshop considers the applicable federal and state laws and regulations such as PPACA, HIPAA, the fraud and abuse laws, HCQIA and physician credentialing, those governing emerging delivery and payment models such as accountable care organizations and population health management, as well as evolving case law.

**IV. COURSE GOALS AND LEARNING OUTCOMES:**

This Health Law Workshop is designed to study a wide range of statutes, regulations, cases, legal issues and policy considerations relating to the delivery of, and access to, health care services in the United States and more particularly the transactions or arrangements and related documentation commonly utilized to support it.

The Course Goals are:

1.) To assure that the students possess an understanding of the fundamental legal underpinnings of the modern American health care system including some of the more significant applicable federal and state laws and regulations;

2.) To increase the students’ understanding of the complexities, interrelationships and competing interests that affect modern American health care policy, access, affordability, delivery and reform;

3.) To increase the students’ ability to apply current legal constructs to rapidly evolving and future legal issues in health care and finance;

4.) To increase the student’s familiarity with and drafting skills for some of the documentation commonly utilized for arrangements and transactions in the health care setting;

5.) To increase the students’ knowledge of the strategies available to attorneys in a wide range of practices to address the health care issues for their clients, and

6.) To increase the students’ understanding about researching, drafting and finalizing legal documents and memoranda.

The Learning Outcomes:

Upon completing this course, students will:

1.) Demonstrate a clear and thorough understanding of the basic principles and concepts of the American health care system and the basic transactions or arrangements and related documentation necessary to support it;

2.) Possess a detailed and substantially accurate understanding of the areas of substantive health law studied;

3.) Be able to give a clear and accurate account of various theoretical approaches to law and the nature of legal rules as applied to the subject;

4.) Be able to accurately identify and clearly explain legal issues in complex problems, correctly apply relevant legal rules, and provide suggested resolutions or alternative solutions as supported by appropriate authority, and

5.) Be able to undertake background research to identify legal issues within complex

problems, to clearly explain those legal issues, to correctly apply relevant legal rules, and to provide suggested resolutions to the problem supported by appropriate authority.

**V. REQUIRED TEXTS AND MATERIALS:**

Title: No Required Text; See note below.

Author:
Publisher:

Edition:

ISBN-13:

The required Reading Assignments or other required materials are listed in the Syllabus and will be provided or are available online, at the NSU Law Library, or will be posted on the Intranet.

COPYRIGHT NOTIFICATION

The materials on this course website may be subject to U.S. and International Copyright Law. The materials on this course website are only for the use of students enrolled in this course for purposes associated with this course and may not be further retained or further disseminated.

**VI. COURSE REQUIREMENTS:**

1. Research/Writing/Document Drafting Assignments

During the semester there will be five (5) research, writing and/or document drafting assignments (“Assignments”) requiring written submissions which will be graded. They will involve topics, issues, or documents relevant to the course materials and typical to transactions in the health care setting.

These Assignments will vary in length and difficulty and their percentage value of the final course grade will reflect this. Collectively the Assignments constitute 100% of the final course grade. The deadlines for submissions of Assignments are stated in the Syllabus. Detailed instructions will be provided with each such Assignment. Note that the Assignments are to be submitted and graded anonymously using student numbers provided by the Student Services Office.

During the semester various other in-class activities, problems, and worksheets will also be utilized but which will not be graded and will not be included in computation of the final course grade.

 **B. Attendance Policy**:

Regular attendance is required in all courses. This course follows the attendance policies detailed in the *Code of Academic Regulations* available at: [https://www.law.nova.edu/about/documents/ Code\_Of\_Academic\_ Regulations.pdf](https://www.law.nova.edu/about/documents/%20Code_Of_Academic_%20Regulations.pdf). The maximum number of absences allowed before a student receives an F for excessive absences in this course is two (2) full classes.

In this Workshop attendance will be taken in each class. A sign-in sheet will be used as the written record of attendance. It is the SOLE responsibility of each student to be aware of their attendance record and to sign his or her own name on the attendance sheets when present to do so. The weekly attendance sheets will be available for review upon reasonable request.

 **C. Credit Hour Requirements**:

In-classroom and Out-of-classroom expectations: Students are expected to read all assigned materials and be prepared for class. As set forth in ABA Standard 310, students should spend a minimum of two (2) hours of out-of-class preparation for every in-class hour in accordance with the Code of Academic Regulations available at: [https://www.law.nova.edu/about/documents/ Code\_Of\_Academic\_ Regulations. pdf](https://www.law.nova.edu/about/documents/%20Code_Of_Academic_%20Regulations.%20pdf).

In this three (3) credit instructional offering, there are 2250 required In-Classroom minutes of direct faculty supervised instruction. You are required to spend at least 5400 Out-Of-Classroom minutes on class preparation, for a total of at least 7650 minutes on this course. Note that because this is a 13 week semester, the In-Classroom time Per Class will be about 173 minutes, and the Out-Of-Classroom preparation time Per Class is about 416 minutes (or about 7 hours).

**D. ADDITIONAL MATTERS:**

USE OF ELECTRONIC DEVICES IN THE CLASSROOM

The use of computers during class is a privilege. Such use is permitted so long as the device is used ONLY for note-taking or professor authorized online educational activities. Any unauthorized use of such devices during class time is strictly prohibited. Violation of this rule may result in loss or restriction of the privilege for the rest of that class (or for a longer period), a reduction of grade, or other appropriate discipline as permitted by the College of Law and the NSU Code of Student Conduct and Academic Responsibility. Please be aware that there will be occasions during which use of computers will be restricted or prohibited in order to avoid distraction and encourage thoughtful participation.

The making any video, audio, electronic or digital record of class activities without prior authorization from the Professor is strictly prohibited.

In addition, while cell phones may be utilized during class time for personal emergency situations, the device is not to be an undue distraction and must be set on a silence mode such that it is not audible to the rest of the class. Otherwise us of cell phones and other mobile or electronic devices during class time Is not permitted for any purpose that is not related to the class being conducted.

GUEST SPEAKERS

From time to time other professors or guest speakers will participate in class presentations. Your attendance and participation is always expected, but even more so on such occasions.

ORDER OF ASSIGNMENTS, ETC.

The class schedule, order of presentation and assignments are subject to change. However, effort will be made to provide reasonable advance notice thereof. It is also possible that the class location or time may change to accommodate their schedules or for similar activities.

STUDENT / PROFESSOR CONFERENCES

During the semester, I will regularly be available after class to meet with students wishing to do so. No appointments are necessary. I am also available for student conferences by appointment at other times at the Law School’s adjunct faculty office. Telephone conferences or E-mail consultations are also encouraged. Contact information is above.

CAREER COUNSELING

At least once during the semester, after class a "career counseling" session can be expected to be held for any students wishing to discuss general legal career issues, or possible opportunities for practice in the health law field. Outside resource persons can be brought in as warranted.

**VII. COURSE SCHEDULE AND TOPIC OUTLINE AND ASSIGNMENTS:**

Class schedule and assignments are subject to modification, but not without prior notification.

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|  |  | **TOPIC** | **ASSIGNMENT** |
| Tues.1/10/17 | Class 1  | Overview of American Health Care System and Health Care Reform (“The American Health Care Water Balloon: v.2017”)  | -The Health Reform Summary dated 4/25/13<http://kff.org/health-reform/fact-sheet/summary-of-the-affordable-care-act>In-class activity re: Health care transactions vocabulary; current issues with carriers leaving PPACA Health Insurance Exchanges; DOJ objections to proposed mergers of major health plans  |
| Tues.1/17/17 | Class 2 | Special situations:Doctor-Patient Relationships and Contracts in the Health Care Setting  | *- Hurley v. Edingfield,* 156 Ind. 416, 59 N.E. 1058 (Ind. 1901)- *Giallanza v. Sands,* 316 So. 2d 77 (Fla. 4th DCA, 1975) In-class activity: Contracts 101; basic provisions take on special significance in health care setting**Assignment #1 (15%) handed out; due back in Class #4** |
| Tues.1/24/17 | Class3 | Special Situations:Medical and Surgical Consents | Informed consent – content and enforceability*-Tunkl v. Regents of Univ. of Calf.,* 60 Cal.2d 92, 32 Cal. Rptr. 33, 383 P.2d 441 (Cal. 1963)-Fla. Stat. 766.103-*Parikh v. Cunningham*, 493 So. 2d 999 (Fla. 1986).-*Sistrunk v. Hoshall*, 530 So. 2d 935, (Fla. 1st DCA, 1988)In-class Activity: Draft informed consent document |
| Tues.1/31/17 | Class 4 | Special Situations:Advanced Directives**Assignment #1 Due** | Basic documents: -Terry Schiavo case Timeline Parts 1 and 2 <[http://www.miami.edu/index.php/ethics/ projects/schiavo/schiavo \_timeline/](http://www.miami.edu/index.php/ethics/%20projects/schiavo/%20schiavo%20_timeline/)> and <… timeline2>-Advance Directives, Anatomical Gifts - Fla. Stat. 765.101 et seq.,-Durable Powers of Attorney - Fla. Stat. 709.2101 et seq.,-Guardianships - Fla. Stat. 744.101 et seq.,**Assignment # 2 (20%) handed out; due back in Class #7** |
| Tues.2/7/17 | Class 5 | Special Situations:Health Insurance Policies | Overview of health insurance, indemnity insurance, and managed care contracts-How Private Health Coverage Works: *A Primer - 2008 Update*: <http://kff.org/health-costs/issue-brief/how-private-health-coverage-works-a-primer/>- Blue Cross Blue Shield Plan Summary and Document to be posted In-class Problem: coverage issues  |
| Tues.2/14/17 | Class 6 | Special Situations:Continuation of Coverage  | BCBS document – sections on continuation of coverage; conversion; - Fla. Stat. 641.3921 to 641.3922- COBRA: See Employee’s Guide to Health Benefits Under COBRA <https://www.dol.gov/sites/default/files/ebsa/laws-and-regulations/laws/cobra/COBRAemployee.pdf> and overview of - HIPAA: See < https://www.dol.gov/general/topic/health-plans/portability>- PPACA: See < <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/affordable-care-act/for-employers-and-advisers>>In-class Problem: Solutions for loss of insurance coverage  |
| Tues.2/21/17 | Class 7 | Special Situations:Physicians and Managed Care Agreements **Assignment #2 Due** | -AMA Model Managed Care Contract - to be posted to the Intranet *-*Potvin v. Metro. Life Ins. Co., 997 P.2d 1153 (CA. 2000)**-**Pardell v. Humana Medical Plan, 560 So.2d 1249 (3rd DCA, 1990)-Fla. Stat. 641.315In-class Problem: BCBS document sections on credentialing and de-networking of participating providers **Assignment #3 (25%) handed out; due back in Class #9** |
| Tues.2/28/17 | Class 8 | Special Situations: Medical Staff Credentialing, Reportability, and Amendment 7 | -Fla. Stat. 395.0191 to 395.0193; -W. Fla. Reg'l Med. Ctr., Inc. v. See, 79 So. 3d 1 (Fla. 2012)-Fla. Hosp. Waterman, Inc. v. Buster, 984 So. 2d 478 (Fla. 2008)-Health Care Quality Improvement Act- 42 U.S.C. Sec.11101 et seq.**-** 2015 NPDB Guidebook<[https://www.npdb.hrsa.gov/resources/ NPDBGuidebook.pdf](https://www.npdb.hrsa.gov/resources/%20NPDBGuidebook.pdf)> (223 pages)In-class Problem: Alleged physician misconduct and consequences**Note - the Make Up Assignment for Cancelled Class 13 will be handed out; due back no later than Class 12 on 4/4/17.** |
| Tues.3/7/17 |  | No Class | Spring Break |
| Tues.3/14/17 | Class 9 | Special Situations:Privacy and Confidentiality **Assignment #3 Due** | HIPAA authorizations, disclosures; penalties, Notice of Privacy Practices; electronic medical records-Herman v. Kratche, 2006-Ohio-5938, 2006 Ohio App. LEXIS 5895 (Ohio Ct. App., Cuyahoga County Nov. 9, 2006)-HIPAA Privacy, Breach Regs <<https://www.hhs.gov/hipaa/> for-professionals/privacy/laws-regulations/index.html>- Fla. Stat. 395.3025; 456.057Note: NSU Health Law Transactional Competition Team is expected to conduct a dry-run presentation during class; your feedback requested.**Assignment #4 (20%) Handed out; due back in Class 11** |
| Tues.3/21/17 | Class 10 | Special Situations:Health Care Fraud and AbuseGuest Speaker expected | - HHS OIG most recent “Summary of Accomplishments” and Semi-annual Report: See < <https://oig.hhs.gov/reports-and-publications/>>- AHLA Program - Fundamentals of the Stark Law and Anti-kickback Statute by Asha Scielzo at: https://www.healthlawyers.org /Events /Programs/Materials/Documents/FHL14/scielzo\_slides.pdf>- Fla. Stat. 456.053 - Patient Self-Referral Act of 1992- Fla. Stat. 456.054 - Kickbacks ProhibitedIn-class Problem: compliance/whistleblower issues |
| Tues.3/28/17 | Class 11  | Special Situations:Human Subject Research **Assignment #4 Due** | Clinical Study Agreements and Patient rights:-Grimes v. Kennedy Krieger Inst., 366 Md. 29, 782 A.2d 807 (Md.2001)- Summary of HHS Office of Human Subject Research regulations: 45 C.F.R. Section 46.101 et seq.,See: <http://www.hhs.gov/ohrp/regulations-and-policy/index.html>and <www.Clinical Trials.gov>In-class Problem: Conflicts of interest when entrepreneurial physicians convert their patients into research subject. |
| Tues.4/04/17 | Class 12 | Special Situations:Dispute Resolution in HealthcareGrades for Assignment #4 will be published upon completion **Note – The Make Up Assignment for Cancelled Class 13 is Due**  | Dispute resolution within managed care:- Kathy Cerminara, Contextualizing ADR in Managed Care: A Proposal Aimed at Easing Tensions and Resolving Conflict, 33 Loy. U. Chi.L.J. (2002)- Dispute resolution methods generally; Discussion about arbitration approaches under AAA, AHLA, JAMS; the BCBS contract provisionsIn-class Activity: mock mediation **Assignment #5 (20%) Handed out - due back on Tuesday, 4/25/17 at 4:30 P.M. to Student Services.** |
| Tues.4/11/17 |  | **No Class** | **No Class** - Holidays |
| Tues.4/18/17 | Class13 | **No Class****Assignment #5 is Due on Tuesday, April 25, 2017 by 4:30 P.M. to the Student Services Office** | **No Class** - Professor scheduling conflict. Instead, a Make-Up Assignment will be provided in Class 8 (2/28/17) and is due by no later than in Class 12 (4/4/17)  |

**VIII. GRADING CRITERIA:**

**Final Course Grade:**

Your final grade is determined by your performance on a number of different tasks:

|  |  |
| --- | --- |
| Five (5) Research /Writing /Drafting Assignments – each worth various point values that in aggregate total 100% of the Final Course Grade | 100% |
| TOTAL | 100% |

**Grading Scale:** The College of Law uses the following grading system:

|  |  |
| --- | --- |
| A  | 4.00  |
| A-  | 3.75  |
| B+  | 3.50  |
| B  | 3.00  |
| B-  | 2.75  |
| C+  | 2.50  |
| C  | 2.00  |
| C-  | 1.75  |
| D+  | 1.50  |
| D  | 1.00  |
| D-  | 0.75  |
| F (or WF)  | 0.00  |

AU Audit; no credit or effect on average

I Incomplete

P Pass; no effect on average

W Withdrawal

Calculation of Health Law Workshop Final Course Grade:

 Total Points From

 All Five Assignments Final Course Grade

95 - 100 points = A

 90 - 94 = A-

 87 - 89 = B+

 83 - 86 = B

 80 - 82 = B-

 77 - 79 = C+

 73 - 76 = C

 70 - 72 = C-

 66 - 69 = D+

 63 - 66 = D

 60 - 62 = D-

59 > = F

**IX. UNIVERSITY-WIDE POLICY STATEMENTS**

Students should visit <[www.fcas.nova.edu](http://www.fcas.nova.edu)/about/policies.cfm > to access additional college-wide policies and [https://www.law.nova.edu/about/documents/ Code\_Of\_Academic\_ Regulations.pdf](https://www.law.nova.edu/about/documents/%20Code_Of_Academic_%20Regulations.pdf). for policies specific to the College of Law.

It is your responsibility to access and carefully read these policies to ensure you are fully informed.  As a student in this class, you are obligated to follow these policies in addition to the policies established by your instructor.

The following policies are described on these websites:

* Academic misconduct
* Last day to withdraw
* Email policy
* Student course evaluations
* Student responsibility to register
* Student responsibility for course prerequisites
* Class Preparation
* Graduation Requirements, etc.

**Additional Academic Resources:** Nova Southeastern University offers a variety of resources that may aid in student success. Among these resources is:

**Accommodations for students with documented disabilities.** For more information about ADA policy, services, and procedures, students may call the Office of Student Disability Services at 954-262-7189 or visit <http://www.nova.edu/disabilityservices>.

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